



# THE INTERIM

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## LEGISLATIVE COUNCIL

Fiscal note work group holds first meeting... The work group created by the Legislative Council to look into how fiscal notes may be improved held its first meeting on March 9. Work group members are Rep. David Wanzenried (chair) and Rep. Michael Lange from the Legislative Council, and Rep. Tim Callahan and Rep. John Sinrud from the Legislative Finance Committee. Representatives of the governor's budget office and staff from the House, the Senate, the Legislative Services Division, the Legislative Fiscal Division, and a few other state agencies joined in the discussions. Work group staff presented background information on the fiscal note process and a summary of the results of the survey of legislators (75 of 150 responded). The work group discussed options concerning the fiscal note process and options concerning the content of fiscal notes. The work group trimmed down those options for further research and discussion. The survey results and other meeting materials are available on the Legislative Council web page at [http://www.leg.state.mt.us/css/committees/administration/2005\\_2006/leg\\_council](http://www.leg.state.mt.us/css/committees/administration/2005_2006/leg_council). Under "Committee Activities", click on "Fiscal Note Work Group".

The work group will meet again in June. For more information, contact Jon Moe, work group staff, at (406) 444-4581 or [jonmoe@mt.gov](mailto:jonmoe@mt.gov).

## EDUCATION AND LOCAL GOVERNMENT COMMITTEE

Subcommittee considers university system budget initiatives... At its Feb. 23 meeting, the Postsecondary Education Policy and Budget subcommittee (PEPB) heard a report from the Board of Regents and Commissioner of Higher Education Sheila Sterns on five Montana university system budget initiatives being proposed for the for the 2009 biennium. These initiatives include:

- \$1.9 million to improve transferability of credits and student data systems;
- \$500,000 to support Indian Education for All at postsecondary institutions;
- \$2.5 million to implement a system-wide scholarship program to increase affordability for need-based student aid programs;
- \$600,000 to continue implementation of a system-wide distance learning "gateway"; and
- \$4 million to increase and improve healthcare worker education programs intended to address health worker shortages in Montana communities.

A work group of PEPB will look more closely at these initiatives to determine if the subcommittee would like to recommend any of them for consideration in the 2009 biennium budget, and to draft accountability measures to be part of any budget decisions for these initiatives.

Funding models... PEPB has also conducted a review of other state funding models to determine whether there are best practice options or other policy considerations for state funding formulas to support the university educational units. The review also examined how the formula that state government uses to determine the state share of support for the university units was developed. There are mathematical factors in the formula that appear to inevitably reduce the state share each biennium. The subcommittee will continue research on the state share formula and look at other

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Montana Legislative Services Division  
Room 110, State Capitol  
PO Box 201706  
Helena, MT 59620-1706  
Phone: (406) 444-3064  
Fax: (406) 444-3036

**THE INTERIM** is a monthly newsletter that reports on the interim activities of legislative committees, including the Legislative Council, the Environmental Quality Council, the Legislative Finance Committee, the Legislative Audit Committee, and interim legislative committees and subcommittees staffed by the Legislative Services Division. Information about the committees, including meeting schedules, agendas, and reports, is found at <http://www.leg.state.mt.us>. Follow the "Committees" link or the "Interims" link to the relevant committee. The newsletter is posted on the legislative branch website on the first of each month (follow the "Publications" link).

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model options at the June meeting.

Status of shared leadership initiatives...The subcommittee also heard a report updating the Shared Leadership for a Stronger Montana Economy initiatives, which received a \$5 million appropriation in the 2007 biennium. That report can be found on the PEPB website at [http://leg.state.mt.us/content/publications/fiscal/subcommittees/PEPB/Shared\\_Leadership.pdf](http://leg.state.mt.us/content/publications/fiscal/subcommittees/PEPB/Shared_Leadership.pdf).

Governor's scholarship program...Last session, the Legislature approved the Governor's Scholarship Program and appropriated \$1.5 million to support need-based and merit-based scholarships for Montana resident students. The subcommittee has received a report from the commissioner of higher education on the status of the first year of this program. At the Aug. 17, 2006, PEPB meeting, an update report will specifically deal with PEPB's interests in student retention rates and continuing progress in the 2-year and 4-year scholarships.

Next meeting in June...PEPB is scheduled to meet on Monday, June 12 in Room 137 of the Capitol. For more information about the PEPB, contact Legislative Fiscal Division staffer Alan Peura at [apeura@mt.gov](mailto:apeura@mt.gov) or at (406) 444-5387. You may also review all PEPB reports on the web at: [http://leg.state.mt.us/css/fiscal/PEPB\\_Subcommittee.asp](http://leg.state.mt.us/css/fiscal/PEPB_Subcommittee.asp).

## ENVIRONMENTAL QUALITY COUNCIL

Wolves and wooly behemoths topics of discussion...The management of bison and wolves dominated much of the March meeting of the Environmental Quality Council.

The council also voted to object to a proposed rule before the Board of Environmental Review that would require reinjection be the primary option in dealing with water produced by coal bed methane wells.

Gov. Brian Schweitzer told the panel of his plan to purchase grazing rights from ranchers who graze about 740 cattle at different times around Yellowstone National Park. Bison wander outside the park, mostly in winter, in search of food. Cattlemen and others fear the wooly behemoths will infect cattle with the disease brucellosis, thereby affecting the industry statewide.

Schweitzer said the current management plan, which includes hazing and slaughtering bison at the cost of nearly \$1 million annually, does little to protect the state's brucellosis free status.

The governor said an expansion of the bison hunt, which netted hunters 40 animals this year, could be part of a new management plan. While acknowledging that his plan isn't perfect—elk are also infected with brucellosis—Schweitzer said he and others would continue to work on the problem.

"We're just laying this on the table," he said, according to The Associated Press. "We haven't got all the answers."

After hearing testimony from the state's wolf managers as well as several citizens concerned about management of the controversial predators, the EQC voted to send a letter supporting delisting of wolves to the Secretary of the Interior.

While the federal government is willing to take the animals off the endangered species list, the states involved, including Montana, Idaho and Wyoming, must have approved management plans. Montana and Idaho have done so, but Wyoming's plan was rejected and is now in court.

Schweitzer and Idaho Gov. Dirk Kempthorne previously asked that their states be allowed to manage wolves independent of Wyoming. Kempthorne is likely to become the next Secretary of the Interior, which could speed up the delisting process.

Next meeting in May...The EQC next meets May 19 in Helena. For more information, contact Todd Everts at (406) 444-3747 or [teverts@mt.gov](mailto:teverts@mt.gov)

HB 790 study subcommittee...The House Bill 790 subcommittee of the EQC, which is studying split estates and coal bed methane, heard presentations about bonding measures at its March meeting and continued its work on proposed legislation that would address issues between surface owners and mineral developers.

The next meeting is April 24 in Helena. For more information, contact Joe Kolman at (406) 444-9280 or [jkolman@mt.gov](mailto:jkolman@mt.gov)

Agency Oversight subcommittee...The Agency Oversight subcommittee continued its work on the HJR 34 study of the superfund sites in Montana and their impacts on communities. The subcommittee heard three panel discussions that included the Rimini/Ten mile site, the Lockwood Solvent site and the S&W Sawmill site.

The next meeting of the subcommittee is scheduled for May 18 in Helena. For more information, contact Todd Everts at (406) 444-3747 or [teverts@mt.gov](mailto:teverts@mt.gov)

## STATE ADMINISTRATION AND VETERANS' AFFAIRS COMMITTEE

State agency reports...At the committee's March 6 meeting, Commissioner of Political Practices Gordon Higgins discussed initiatives that his office has undertaken for on-line filing of campaign finances and other information. Maj. Gen. Randy Mosley, director of the Department of Military Affairs, reported on activities affecting the Montana Guard and Reserves. Melanie Symons, staff attorney for the Public Employees' Retirement Administration, updated the committee on pertinent agency activities, including the progress for selecting a new executive director of the Public Employees' Retirement Board.

Committee considers proposals to revise administrative rules procedures... Committee staff recapped six draft bills requested by the committee that deal with some aspect of the processes for adopting administrative rules. The committee had initially reviewed these proposals in November. The committee took the following actions on the proposals:

- rejected a proposal to clarify legislator polling procedures regarding administrative rule proposals (LC 9990);
- recommended a proposal to clarify the requirements to notify a bill's sponsor about proposed administrative rules to implement the bill (LC9991);
- recommended a proposal to clarify the effective date of a proposed administrative rule (LC9992); and
- delayed action until May 12 on three related proposals that deal with reimbursement of expenses when the Montana Administrative Procedures Act is violated (LC9993-95).

Hiring process for new director of retirement board spurs legislative recommendations... Committee staff presented a statutory review and a range of options regarding the Public Employees' Retirement Board's process and actions in the context of open meetings and public participation. This item related to the recruitment and selection processes used by the PERB for hiring a new executive director for the Montana Public Employees' Retirement Administration. Of the six options considered, the Committee took the following actions:

- rejected a proposal to authorize the Department of Administration, rather than the PERB, to hire the staff of the MPERA (LC9998);
- recommended a proposal to require Senate confirmation of PERB members (LC9999);
- recommended a proposal to amend a tolling statute by extending the time in which a petition may be filed with a district court to set aside an agency decision made in violation of the public participation in government statutes from the current, strict 30-day window within which a suit must be filed (LC10001); and
- postponed action on three other options:
  - a proposal to establish minimum qualifications for the position of executive director of the MPERA (LC9997);
  - a proposal to delete language limiting the right of an individual to bring a civil action to enforce the requirements of the public participation in government statutes (LC10002); and

- a proposal allowing a district court to award costs and reasonable attorney fees to a plaintiff who prevails in a civil action brought to enforce the plaintiffs' rights under the public participation in government statutes (LC10003).

Committee to review retirement proposals... The committee began implementing the provisions of HB 2 from the December 2005 special session that requires the committee to scrutinize proposals affecting public employee retirement systems. The committee is disseminating a memorandum notifying stakeholders of the opportunity to inform the committee of their proposals that may affect any of the state's public employee retirement systems. Proposals that may affect a public employee retirement system must be submitted to the committee's staff by June 9 and will be reviewed by the committee at its meeting scheduled for June 22-23. In related action, the committee has scheduled a meeting for Friday, April 28, to discuss and take action to establish principles and guidelines for Montana's public employee retirement systems.

Because of time constraints at the March 6 meeting, the committee postponed until May 12 the consideration of the advisability of additional study of issues pertinent to HJR 42 and public employee retirement systems in general, including the mitigation of the unfunded liabilities that exist in four of the retirement systems.

Meetings in April and May... The tentative agendas for the April 28 and May 12 meetings will be posted to the committee's webpage when they are available. The agendas will be updated as the meeting dates approach. Material to be presented by the committee's staff will also be posted to the webpage when available. For additional information, contact the Dave Bohyer, committee staff, at (406) 444-3064 or dbohyer@mt.gov.

## STATE-TRIBAL RELATIONS COMMITTEE

State-Tribal Relations Committee meets in March... The State-Tribal Relations Committee met on March 13 in Helena. The meeting covered a wide variety of topics from Indian gaming to sentencing disparities in state and federal court systems.

Tribal gaming reps. question state gaming pact policies... Gene Huntington, Gambling Control Division, Department of Justice, discussed the federal Indian Gaming Regulatory Act and how the act fits in with Montana laws on gambling. The federal law requires Indian tribes to negotiate compacts with the state if the tribe wants to offer Class III gaming on a reservation. The only Class III gaming allowed on a reservation in Montana is the same gaming that is allowed under Montana law. That means that gaming such as slot machines, roulette, and blackjack are not allowed on reservations. However, tribes can negotiate for more

machines and higher payouts than non-Indian gambling operators.

Jami Hamel, Roger Running Crane, and Joe Dupuis of the Montana Tribal Gaming Association also discussed gaming on reservations. The association believes that the current gaming compacting process in Montana is flawed because the state uses a "one size fits all" formula. The association also believes that the current compacts do not help tribes with economic development and tribal self-sufficiency because the limits on the number of machines and the payouts negotiated by the state do not address the economic needs on a reservation. The committee agreed to work with the association on legislation for the 2007 legislative session that would deal with the association's concerns.

Tribal educator emphasizes cooperative agricultural research...Dr. Nate St. Pierre, Stone Child College, discussed HJR 11 passed last session. The resolution calls for the sharing of research, research scientists, and educational efforts between state and federal agricultural research stations and the tribal agricultural research programs in order to deal with important agricultural issues facing Montana, such as deleterious insects, pesticide use, livestock disease, noxious weeds, and irrigated and dryland cropping systems. St. Pierre talked about the role of tribal colleges in these efforts. Although research is not a major focus of tribal colleges, community service is, and successful community service often relies on good research.

Committee reviews progress of Indian education...Superintendent of Public Instruction Linda McCulloch updated the committee on the work of the Office of Public Instruction in implementing Indian Education for All. She talked about the development of curriculum resources and materials, Ready to Go grants to seventeen school districts for the development of materials that other districts will be able to use, implementation assistance grants to educational organizations to develop materials and resources, professional development for teachers and administrators, and a public information campaign.

McCulloch also discussed the role of the Montana Advisory Council on Indian Education. The council is made up of tribal representatives, urban Indian representatives, teachers, administrators, trustees, Indian educators, and Indian parents. The council advises OPI and the Board of Public Education on Indian education. The council is reviewing all of the curriculum resources and materials being developed by OPI to ensure cultural integrity.

Update from GAIN Council...Budget Director David Ewer described the activities of the GAIN (Governor's American Indian Nations) Council. The council provides a forum for state agencies to share information about the various agreements that the state of Montana has with Montana tribal governments. These include gaming compacts, hunting and fishing agreements, and revenue-sharing agreements, among others.

Committee hears about disparities in criminal sentencing...Councilwoman Tina Has the Eagle, Fort Belknap Community Council, presented the committee with a resolution from the Montana-Wyoming Tribal Leaders' Council requesting a study of the disparate treatment of American Indians in both state and federal courts. House Joint Resolution 15 from the 2005 legislative session requested a similar study. The resolution was referred to the Law and Justice Interim Committee. That committee is to look at what resources and information would be needed to conduct such a study. The State-Tribal Relations Committee asked its staff to follow up on the work of the Law and Justice Committee.

Committee plans trip to Blackfeet Reservation...The committee would like to visit the Blackfeet Reservation in May. Staff will contact the Blackfeet Tribal Council to see if a visit could be arranged in early May.

The committee would also like to visit the Crossroads Correctional Center in Shelby and meet with American Indian inmates. This visit will be coordinated with the visit to the Blackfeet.

For more information about the State-Tribal Relations Committee, contact Connie Erickson at (406) 444-3078 or [cerickson@mt.gov](mailto:cerickson@mt.gov).

## LEGISLATIVE FINANCE COMMITTEE

LFC meets in March...The Legislative Finance Committee (LFC) met on March 9 and 10. The agenda and reports are available on the Legislative Fiscal Division (LFD) website at <http://www.leg.mt.gov/css/fiscal/default.asp> or you can contact Clayton Schenck for more information at [cschenck@mt.gov](mailto:cschenck@mt.gov) or (406) 444-2986.

The following summarizes the policy and fiscal reports presented by LFD and agency staff and the discussion of the reports by the committee.

Community Colleges Funding Study...Committee staff presented a report on the final results of the community college funding study. During the 2005 legislative session, the Joint Appropriations Subcommittee on Education expressed concern about the community college assistance program funded in HB 2, specifically that the cost of education factor (COE) of the formula may no longer reflect the actual costs of providing education at Montana's three community colleges. As a result of the appropriations subcommittee's skepticism about the validity of the formula, the Legislature circumvented the formula by approving an additional one-time-only special community college appropriation in HB 2 and directed the LFC to "make it a high priority to look at the community college funding formula and statutes and report to the 2007 legislature on recalibrating the cost of education factor and other funding issues."

The funding study report concludes that "the COE factor has indeed lost relevance as part of the community

college three-factor funding formula", which creates public policy problems with the statute and the original 1981 study that led to the funding formula. Two options recommended for legislative consideration to deal with the funding formula are:

- rebase the COE factor by using a new model and with that rebased COE factor, recommend an adjustment model for each biennia; or
- in addition to rebasing the COE factor and recommending an adjustment model, create a calculation that takes into account the fixed vs. the variable costs at the community colleges

The options are intended to design an alternate model to determine the COE factor, which is then applied to the state percent share factor in order to set the level of state funding for the community colleges. Neither option would change the state percent share factor; that percentage is a matter of public policy for the Legislature to determine in HB 2. All that is at issue is which model to select for determining the COE factor. Thus, under either option the total state funding level would remain within the purview of the Legislature.

The LFC determined that it did not have sufficient data at this time to make a decision about which option to select. Members agreed that the funding formula problems merit an action decision but deferred a final decision on the community college funding study until the June meeting. For more information about the study, contact Alan Peura at [apeura@mt.gov](mailto:apeura@mt.gov) or at (406) 444-5387.

Corrections Long-Term Solutions... The Department of Corrections presented potential solutions, including some "out of the box" concepts, for reducing the correctional population. These included implementation of more drug courts, changes in the use of consecutive prison terms, and review of criminal statute penalties. The text of the department's presentation may be found under the "Department of Corrections - Current Budget Status and Long-Term Solutions" report on the LFD website under staff reports. For additional information, contact Pat Gervais at [pagervais@mt.gov](mailto:pagervais@mt.gov) or at (406) 444-1795.

Agency Appropriations Transfer Requests (Supplementals)... The LFC considered requests from two agencies to the governor and from the judiciary for supplemental appropriations (transfers from the second year of the biennium to the first year to cover a shortfall). The LFC is required to review planned supplemental transfers between fiscal years and report back to the approving authority. Before a request is approved, state law requires that the following criteria be met:

- (1) expenditures must be for an "unforeseen and unanticipated emergency" that causes the appropriation for the year to be insufficient for the operation and maintenance of the agency in that year; and

(2) the requesting agency must present a plan for reducing expenditures in the second year of the biennium that "allows the agency to contain expenditures within appropriations".

The LFC took the following action on the requests:

- The LFC reported to the governor that requests for supplemental funding for the Department of Natural Resources and Conservation met statutory criteria. This included \$2.0 million for current season fire costs and \$100,000 for the Land Banking Program.
- The LFC reported to the judiciary that the request for \$3 million supplemental authority for the District Court Operations program does not meet statutory requirements and requested that the judiciary provide more information on the cost overrun and maintenance of District Court Operations in the second year of the biennium. Because most of the budget for these costs in FY 2007 are in the new statewide Office of the Public Defender, an executive branch agency, the judiciary may have difficulty funding District Court Operations in FY 2007.

Three other supplemental appropriation transfer requests were also submitted to the Legislative Fiscal Analyst just prior to the LFC March meeting, but staff did not have enough time to analyze the requests and report to the committee by the meeting date. At the direction of the LFC, the requests were mailed to the committee on March 17. The LFC has 90 days to review the requests and report to the governor. The governor must wait 90 days before acting on the requests if the LFC does not report sooner. The transfer requests include the following:

- The Department of Corrections submitted a request to transfer \$11.5 million of appropriation authority. The department estimates that population costs overages, vacancy savings, overtime, and bargaining unit pay increases comprise 76 percent of the cost overrun.
- The Department of Public Health and Human Services asked to transfer \$11.4 million to cover shortfalls in Medicaid costs, the Montana State Hospital, services that would be reduced by the federal Deficit Reduction Act of 2006, and other services.
- The Department of Revenue requested a transfer of \$375,000 for litigation costs.

LFD staff has identified potential problems with each of the proposed transfers under review. None of the proposals includes a complete single plan for mitigating the costs in the second year of the biennium. Staff also noted that the Department of Corrections request does not appear necessary since the appropriation for secure care is a

biennial appropriation and no additional authority is necessary. Legislative staff will work closely with legal counsel to assess these problems. Additionally, as directed by the LFC, staff is requesting additional information on these requests from the agencies and is requesting input from members of the session joint appropriations subcommittees for these agencies on the plans. The LFC intends to act upon these requests at its June 9 and 10 meeting or sooner if necessary to meet the legitimate needs of the agencies to cover funding shortfalls.

Pension Plans Unfunded Liability... Staff presented a brief report outlining the activities to deal with the remaining unfunded liability in certain pension plans. During the December 2005 special session, the Legislature appropriated a total of \$125 million from the general fund to teachers' retirement and public employees' retirement systems. However, about \$600 million is still needed to make the retirement systems actuarially sound, meaning that the remaining unfunded liability can be amortized within a 30-year period. As of the LFC meeting date, both the Public Employees' Retirement System and the Teachers' Retirement System support increasing the employer contribution, but each system's board will be reviewing other options.

The State Administration and Veterans Affairs Interim Committee, which recommended the employer contribution rate increase prior to the special session, will be reviewing other options at their May and June meetings. The governor's budget office is in the early stages of the Executive Planning Process (EPP), which might result in one or more proposals moving forward. The Board of Investments is focusing on ways to increase and stabilize investment returns. The committee will monitor the progress of these efforts but is interested in ensuring that there is a viable plan ready for consideration by the Legislature before it meets next January. For more information, contact Jon Moe at jonmoe@mt.gov or at (406) 444-4581.

General Fund Update – 2007 Biennium... Based on data through the end of February 2006, total general fund revenue collections for FY 2006 may exceed the December special session revenue estimates contained in HJR 1. While the outlook for most revenue categories has not changed materially since the special session, the overall trend for general fund revenues in FY 2006 is strong. Individual and corporation income tax collections could result in additional revenue above the HJR 1 estimates. Telecommunications excise taxes and highway patrol fines are showing some weakness.

The *Legislative Fiscal Report, Special Session December 2005* shows that the general fund ending fund balance for FY 2006 is projected to be \$227.8 million. This projection is based on appropriations made by the 59th Legislature (regular and special session) and on the revenue estimates contained in HJR 1. If the revenue trends previously discussed continue for the remainder of the fiscal year, the general fund could end FY 2006 with a balance greater than anticipated during the December special

session. However, if supplemental funding above the level assumed by the Legislature for the Departments of Corrections and Public Health and Human Services occurs, the ending fund balance would be reduced accordingly.

The obvious question is, "What does this information indicate for the remainder of the 2007 biennium and beyond?" Revenue trends portray an optimistic outlook for the future, but a thorough analysis of the "permanent" versus "one-time-only" nature of these collections is imperative. Without this information, erroneous conclusions could easily be drawn that could lead to inappropriate fiscal policy. This may lead to a "boom and bust" cycle similar to the dot-com bubble that was followed by a precipitous fall in the equity markets and ultimately a reduction in state revenues.

While LFD staff will continue to monitor revenue trends, a thorough analysis of current revenue trends will be conducted during late summer and early fall in preparation for the Revenue and Transportation Interim Committee's revenue estimating process. This analysis will be the basis for our revenue estimate recommendations for the 2009 biennium. For more information, contact Terry Johnson at tjohnson@mt.gov or at (406) 444-2952.

SB 495 Revisited – Sale of Common School Trust Mineral Royalties... The significant increases in energy prices and increased mineral production have led to more tax revenue for the state. Increased mineral production has resulted in mineral royalties from the common school trust.

Minerals on common school trust lands are considered part of the corpus of the common school trust. When minerals are extracted from common school trust lands, mineral royalties, net of amounts to fund Department of Natural Resources and Conservation (DNRC) administration, are deposited to the common school trust as part of the monetary corpus. Earnings from the monetary corpus are distributed 95 percent to public schools and 5 percent to the school trust. However, Senate Bill 495, enacted in 2001, resulted in the sale of \$138.9 million in net mineral royalties from the common school trust over an estimated 30 years to DNRC for a price of \$46.4 million. To make this purchase, the department secured a \$46.4 million loan from the coal severance tax trust fund. The remaining royalties, after amounts to fund DNRC administration and pay debt service on the loan, are distributed to the guarantee account for public schools. Estimates after enactment of the legislation determined that the total \$138.9 million of net royalties would be distributed over a 30-year period, after which the royalties would again be deposited in the common school trust and become part of the corpus.

Because of the unanticipated increase in mineral royalties from the common school trust, DNRC has estimated that the \$138.9 million of net mineral royalties will be received over 12 years (by FY 2013) rather than 30 years (by FY 2031). Based on new DNRC assumptions and the same discount rate, the net present value is \$74.8 million. This means that if what is known now was known in 2001, the purchase price would have been \$74.8 million, or \$28.4 million more than the actual price of \$46.4 million. For more information, contact Roger Lloyd at rlloyd@mt.gov or at (406)

444-5385.

Management of state lands... The LFC established a working group to examine state lands management. Members are Sens. Mike Cooney (chair), Rick Laible, and Carol Williams and Rep. Rick Ripley. The group will hold its first meeting on Thursday, April 27 in Room 102 of the Capitol. An agenda will be posted to the LFC website when available. For more information, contact Barbara Smith at basmith@mt.gov or at (406) 444-5347.

Department of Public Health and Human Services: Program Issues... The LFC heard several reports about the Department and Public Health and Human Services. Those reports and notable items in each were:

- February Budget Status Report
  - \$6.6 million general fund projected shortfall
  - Impact of the federal Deficit Reduction Act of 2006 unknown but could increase shortfall
- Federal Deficit Reduction Act of 2006
  - Changes to the Child Support Enforcement Program
    - Prohibition on use of federal incentive payments at 34 percent state matching funds for program, potentially costing the state \$3.7 million in the 2009 biennium
    - Requirement to charge each person who has never received cash assistance \$25, raising an estimated \$128,000 in the 2009 biennium
  - Changes to Medicaid
    - Implementation of a five year review to determine if asset transfers were legal and if not, imposition of a penalty period for Medicaid eligibility beginning at the date of application, which will generate an unknown amount of savings
    - Revision in the reimbursement for drugs based on the manufacturer's price, which will also reduce expenditures by an amount unknown at this time
    - Prohibition for charging Medicaid for case management services provided to foster care children by DPHHS social workers, resulting in about a \$1 million general fund increase this biennium
  - Reductions in federal cost

assistance for some aspects of targeted case management services provided to the developmentally disabled and physically disabled as well as those with a serious and disabling mental illness, which will reduce federal funding by an estimated \$5.9 million annually in worst case projection, beginning retroactive to January 1, 2006

- Implementation of the new Part D Medicare Prescription Drug Program 1/1/06
  - Imposition of workloads for DPHHS staff
    - Prior to January 1, cost at about \$250,000
    - During January and February 10 FTE spent about 925 hours for staff administrative time
    - Provision of direct assistance to about 770 individuals, with problems including being charged co-payments when the individual should have been exempt; inability to obtain some drugs such as anti-rejection drugs for a transplant patient
  - Implementation of policy to use general fund to pay for drugs if persons eligible for Medicaid could not receive drugs
    - Same policy decision as elected by 25 other states
    - About \$30,000 in costs so far
    - Expect to be reimbursed by federal government
- Health Insurance Flexibility and Accountability (HIFA) Waiver
  - Completion delayed due to workload imposed by Medicare Part D implementation
  - Continuation of LFC monitoring related to need for slots for low-income children, use of the additional funding for adult mental health services, and cost to maintain waiver enrollment

For more information, contact Lois Steinbeck at lsteinbeck@mt.gov or (406) 444-5391.

Information Technology Strategic Plan... Staff introduced Dick Clark, the new state chief information officer.

Staff distributed the latest draft update to the statewide information technology plan and presented a report analyzing the implied fiscal impacts and fiscal policy impacts of the plan. The plan, at an estimated cost of \$25 million, calls for replacing the current data center that houses computers and data network equipment serving the statewide data network and establishing a backup site outside of Helena. Other areas that may have fiscal impacts or fiscal policy implications are plans to evaluate and implement a state standard around open-source software, and plans to develop alternative approaches to funding information technology resources.

The committee voted to send a letter to all agency directors emphasizing the importance to the Legislature of completing agency information technology strategic planning requirements of the Montana Information Technology Act. The letter also emphasized the committee's intention to recommend that as a condition for receiving funding, the Legislature verify that a budget request is supported within agency information technology plans.

Clark updated the committee on major information technology projects and exceptions to state information technology policies and standards that have been requested by state agencies. For additional information, contact Greg DeWitt at [gdewitt@mt.gov](mailto:gdewitt@mt.gov) or at (406) 444-5392.

Other reports to the LFC... Several reports prepared by LFD staff were not presented orally to the LFC. The reports, which can be found on the LFD webpage or requested from the LFD, are:

- Montana State Fund Litigation – Potential General Fund Impact
- Impact of Natural Gas Prices on State Agencies
- Low-income Energy Assistance Program (LIEAP)
- Governor's Powers in an Emergency
- Montana Historical Society Building Project Status (Purchase of Capital Hill Mall)

RIT subcommittee... The LFC's Resource Indemnity Trust subcommittee completed the requirements of HJR 36 during its March 8 meeting. The subcommittee will make recommendations to the LFC in June. The subcommittee is working on finalizing the report and once it is completed, the report will be available at [www.leg.mt.gov/css/fiscal/RIT\\_Subcommittee.asp](http://www.leg.mt.gov/css/fiscal/RIT_Subcommittee.asp) and will be presented at the June LFC meeting. The subcommittee will probably not meet in June. For more information, contact Barbara Smith at [basmith@mt.gov](mailto:basmith@mt.gov) or at (406) 444-5347.

Long-Range building cash funding study... The LFC's Long-Range Building Cash Program (LRBP) subcommittee met March 8 to hear the staff analysis of two LRBP funding proposals. The LRBP cash program provides funding for the major maintenance of state owned buildings. The program is currently funded at only 20 percent of the recommended level. The subcommittee is developing ideas to provide adequate financial resources for the program. At the March meeting, the subcommittee directed staff to assist in the further development of the two funding proposals. The

subcommittee plans to conduct a teleconference in the near future to consider staff findings. When the date of the teleconference is determined, an announcement will be posted on the LFD website under the LRBP subcommittee link. The subcommittee hopes to have the funding proposals fully developed for presentation to the LFC at the June meeting. For more information, contact Cathy Duncan at [cduncan@mt.gov](mailto:cduncan@mt.gov) or at (406) 444-4580.

LFC bulldogs...No, not a new name for the committee and not the committee mascot. The term "bulldogs" refers to LFC members assigned to a particular topic. The bulldogs will provide a sounding board for LFD staff that are working on the topic. The added benefit is that members will be able to enhance their own expertise in the topic areas. The following "bulldog" list shows the committee members who are a resource for a particular topic:

- Community College Funding Formula Recommendation: Sen. Rick Laible and Sen. Carol Williams
- Correction Long-Range Solutions: Rep. Tim Callahan, Sen. Don Ryan, Rep. Ray Hawk, and Sen. Keith Bales
- Common Schools Trust Mineral Royalties (SB 495) Recommendations: Sen. Ryan and Rep. Rick Ripley
- State Lands Management Recommendation: Sen. Mike Cooney, Sen. Laible, Sen. Williams, and Rep. Ripley
- Promoting Economic Success Seminar Recommendations: Sen. Williams, Sen. Cooney, Rep. Hawk, and Rep. Callahan
- Federal Deficit Reduction Act Letter to Congressional Delegation: Sen. Ryan and Sen. John Cobb
- Agency Presentation to Appropriations Subcommittees Template: Sen. Laible, Rep. John Sinrud, and Sen. Cobb
- Fire Suppression Study – Advisory: Sen. Cooney and Sen. Bales
- Rainy Day Fund Bill Draft Proposal: Sen. Laible and Rep. Rosie Buzzas
- Chips Enrollment Status: Sen. Cooney and Sen. Williams
- Montana State Hospital: Rep. Buzzas and Sen. Laible
- Montana Developmental Center: Sen. Cobb and Sen. Williams

## ECONOMIC AFFAIRS COMMITTEE

Work group meets on identity theft .... A group of interested persons providing suggestions to the Economic Affairs Committee for its study on identity theft under SJR 38 met March 15 to discuss options for draft legislation that would allow consumers to freeze access to their credit. A credit or security freeze prevents the opening of new credit accounts and is intended to be a way of preventing an

identity thief from having access to a consumer's credit. A freeze also can prevent the person who requested the freeze from obtaining credit unless the person requests a "thaw".

Pam Bucy of the Attorney General's Office and Brad Griffin of the Montana Retail Association agreed to work on differences between a bill draft presented by Attorney General Mike McGrath at the Feb. 10 Economic Affairs Committee meeting and a bill draft proposed by the Consumer Data Industry Association, which represents the three major credit reporting agencies that would be prevented from issuing a credit report on consumers who institute a freeze. Two areas of contention include the process for instituting a freeze and the cost.

Consumer advocates propose several options for implementing a freeze as a way to allow a quick freeze on credit if there is a fear that the consumer's identity has been stolen. The credit reporting agencies want common processes among the states and say that a request by certified mail would create a better assurance of the consumer's identity. Credit reporting agencies are promoting a uniform charge for initiating a credit freeze. A credit reporting agency has suggested a \$10 charge per person per credit reporting agency. Consumer advocates say that the \$10 charge has proven to be a barrier on using the freeze in states with that high of charge. Consumer representatives urge a charge of \$3 or less for either implementing a freeze or thawing it when the consumer wants access to credit.

Next meeting .... The work group will meet May 4 at 10 a.m. in Room 137 of the Capitol. The group will review the proposed bill and further clarify policy choices for the Economic Affairs Committee. The committee will review those options at its May 12 meeting.

For updates on the identity theft study and other work being done by the committee, please see the committee website or contact Pat Murdo at (406) 444-3594 or by email at pmurdo@mt.gov.

## REVENUE AND TRANSPORTATION COMMITTEE

Post-tax tribulation meeting scheduled...The Revenue and Transportation Interim Committee is meeting Friday, April 28 at 8 a.m. in Room 137 of the Capitol. Although the agenda has not been set, some topics will include:

- a highway safety update and a discussion of Highway 2;
- Legislative Fiscal Division access to tax and revenue data from the Department of Revenue;
- a Department of Revenue report on the tax credit for contributions to a qualified endowment;
- the HJR 44 study on the taxation of certain oil and natural gas property;
- a Department of Revenue update on the reappraisal of agricultural land, residential and commercial property, and forest lands; and
- a citizen proposal that the committee recommend that a study of the alcoholic beverage code be conducted next interim.

For more information about the committee, contact Jeff Martin, committee staff, at (406) 444-3593 or jmartin@mt.gov.

## WORD BANK FOR CROSSWORD PUZZLE ON NEXT PAGE

ADJOURNMENT, ADOPTION, AMENDMENT, BILL, BUFF, CAT AND DOG BILL, CAUCUS, CHAMBER, CONSTITUENT, CONVENE, DISTRICT, EFFECTIVE DATE, ELVIS, ENGROSSING, ENROLLING, FISCAL NOTE, HEARING, INTERIM, JANUARY, 3, 2007, JOURNAL, LEGISLATIVE LIBRARY, LEPO, MAJORITY PARTY, MINUTES, MOTION, PER DIEM, PRESIDING OFFICER

## A MONTANA LEGISLATIVE DIVERSION

By Lisa Mecklenberg Jackson, Legislative Librarian

### Across

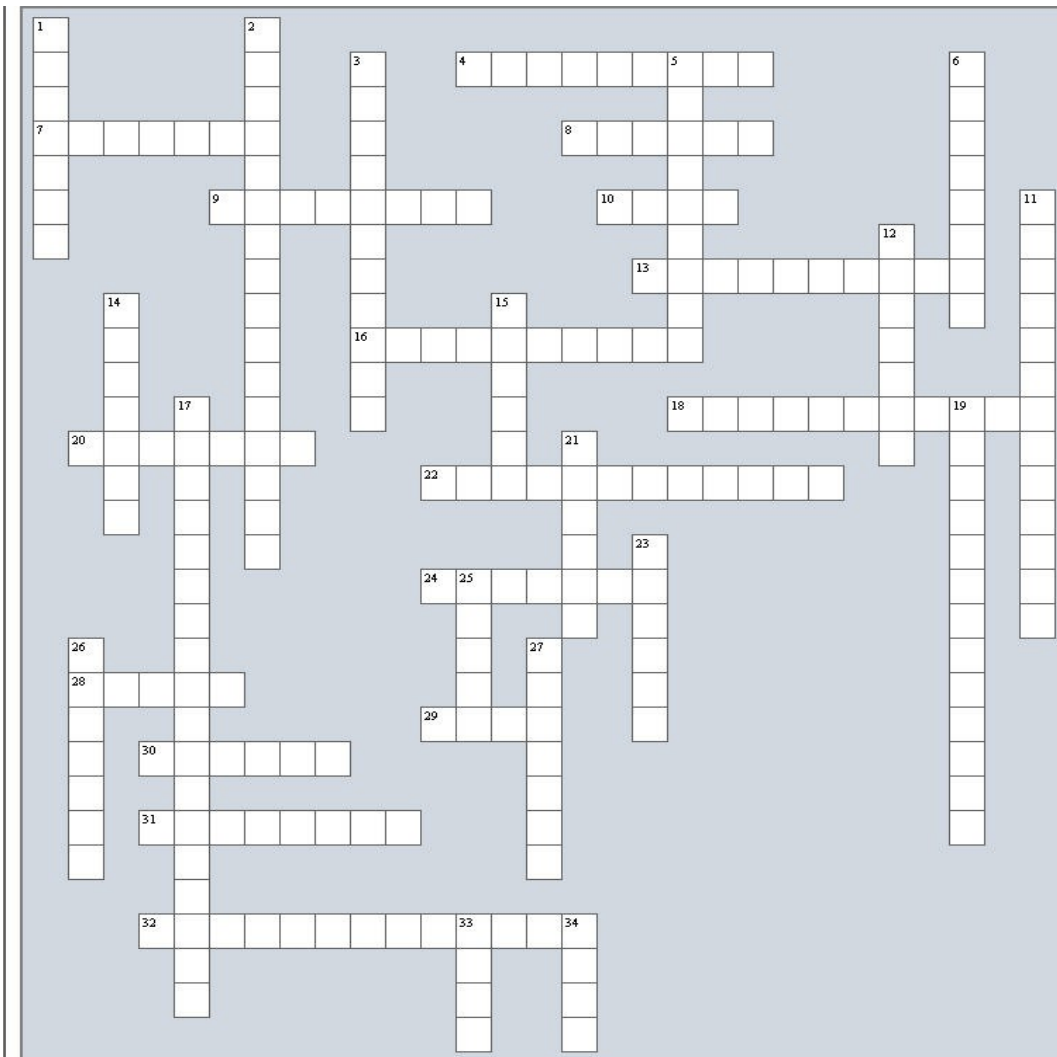
4. A change proposed or made to a bill, resolution, or motion.
7. A record of the actions taken at a committee meeting that serves as the official record of the meeting.
8. The minimum number of members of a legislative body required to be present for valid transaction of business.
9. Approval or acceptance of a motion, amendment, or resolution.
10. A proposed law that is sponsored by a legislator and presented to the Legislature for consideration.
13. A brief document that contains an analysis of a bill's dollar impact on state or local revenue, expenditures, or fiscal liability.

### Down

1. The official meeting place of the Senate or the House.
2. The person who presides over a committee or house (2 words).
3. A person who lives in the district represented by a legislator.
5. Preparing a bill in the form that it finally passes the Legislature with appropriate places for documenting the house of origin and approval of a bill.
6. Literally means "for a day" (1 space between words)
11. The political party having the most members in a house.
12. To officially begin a meeting of a legislative body.
14. The official chronological record of the proceedings of a house.
15. A formal proposal offered by a member.
17. The place to go for assistance for your research needs.

16. Incorporating amendments and all appropriate technical corrections into the text of a bill.
18. Ending of a meeting or daily floor session.
20. The period of time between regular legislative sessions.
22. Start date of the 60th Legislative session.
24. A written law.
28. Who "rocks out" in the Legislative Library?
29. An action taken by the Governor to prevent the enactment of a bill.
30. Color of a second reading bill or resolution in the first house.
31. The geographic area of Montana represented by a legislator.
32. A bill that makes a specific appropriation for a specific purpose that is not included in the general appropriations bill.
19. The date on which a law becomes binding.
21. A meeting of all members of a political party.
23. A break in a committee meeting or daily floor session of a house.
25. A motion to set aside consideration of the pending question in such a way that its consideration may be resumed at the will of the body.
26. Public discussion scheduled by a standing committee for the purpose of gathering information on a bill.
27. The legislator who introduces a bill or resolution.
33. Color of an original fiscal note.
34. Legislative Environmental Policy Office.

Answers on pg. 15



**THE BACK PAGE****DISTRIBUTED ENERGY GENERATION AT THE CROSS ROADS**

By Casey Barrs  
Legislative Research Analyst

**INTRODUCTION**

Will the landscape of energy generation and transmission remain as we have always known it? Maybe not. The concept of distributed energy generation (DEG) involves many low- to mid-capacity power generation facilities located near the intended place of use. Rather than having one central high-capacity plant provide power for a large area with long transmission distances and a risk of catastrophic blackouts, small plants offer communities independence from the wide-area grid, boosting resilience.

By definition, distributed energy resources are relatively small when compared to the central-station model that ranges to 1,000 MW and more. Individually, the contribution of a distributed energy generation facility to energy management and ancillary services on the grid is often small. However, if many distributed energy resources can be aggregated and controlled as a single unit, then, advocates say, their effect and their potential grows immensely.

The fuel or power sources most often associated with DEG are wind, solar, fuel cells, biomass, natural gas, petroleum, and even geothermal and micro-hydro energy sources. Methods of energy production that “recycle” rather than waste the heat they produce also fall in the category of DEG.

Senate Joint Resolution No. 36 was assigned the Energy and Telecommunications Interim Committee. The interim study resolution requested an investigation of the potential benefits and obstacles to expanding distributed energy generation in Montana.

The preamble to the resolution points out that Montana citizens and lawmakers have become very interested in renewable and other small-scale distributed generation systems since the electrical energy crisis in the summer of 2001. This interest comes from the perception that DEG complements the central-station model of electrical generation and offers potential solutions to many pressing energy and electric power problems, including energy price spikes, energy security concerns, power quality, rising energy costs, tighter emissions standards, transmission bottlenecks, and the desire for greater control over energy costs. Some also contend that DEG provides a more affordable alternative for adding future load to remote Montana locations than adding parallel lines over long distances. So too, several emerging technologies currently being promoted and developed in Montana, such as rooftop solar arrays, small wind turbines, and fuel cells, appear ideal for distributed generation.

There are a great many “stakeholders” with strongly held views about DEG. They have staked out positions on DEG ranging from its potential benefits to its potential risks or impracticalities. Each side relies heavily on its own scientific and economic justifications.

**POTENTIAL BENEFITS OF DISTRIBUTED ENERGY GENERATION**

An eclectic group of stakeholders argues or at least acknowledges that DEG can bring them benefits. For example, the consumer gains more choice. Small plants typical of DEG offer communities independence from the wide-area grid. The business community sees DEG stimulating growth and competition in emerging technologies. Newly competitive markets favor technologies such as DEG that are low in capital cost, quick to deploy, and modular, so that they can respond rapidly to changing market conditions. Utilities such as Northwestern Energy recognize that DEG gives them more power sources to choose from. Other utilities might also benefit from lesser line congestion, reduced line losses (10 percent of the electrical energy can be lost over long transmission distances), and back up generation or “reliability”.

Other supporters of DEG point to the benefits to Montana's environment. They say DEG promotes renewable resources and clean technologies that are emerging in the state. They also say that it promotes more efficient energy transmission. That is, distributed generation creates opportunities for local consumption of local resources as well as local generation that might not otherwise be tapped. And just as relevant to the environment, DEG promotes more energy efficient generation. This refers to combined heat and power. These combined cycle or co-generation processes use heat that would otherwise be wasted. By one assessment, coal-fired power plants in Montana are at best about 35 percent efficient. Transmission and distribution line losses further reduces the efficiency 32 percent. Combined cycle gas-fired plants can be up to 60 percent efficient.

**POTENTIAL LIABILITIES OF DISTRIBUTED ENERGY GENERATION**

Questions about safety risks to linemen, damage to equipment, power quality or reliability, and other concerns have been part of the DEG debate since the beginning. In September 2003, the Institute of Electrical and Electronics Engineers (IEEE) noted that there are major obstacles to an orderly transition to the use and integration of DEG. Although the IEEE has been hard at work crafting national DEG standards to deal with the concerns, it readily admits that standards, important though they be, are not a panacea. It noted “many specific examples that were not necessarily appropriate to be stated as universal mandatory requirements in the standards.” There are, for example design-specific, application-specific, and equipment-specific issues not amenable to broad standardization.

The Montana Electrical Cooperatives Association (MECA) echoes the view that “one size does not fit all.” MECA

maintains that there are also location-specific and size-specific variables which need be considered. Its concern is that national or even statewide standards might impose regulations unsuitable or harmful to them and their customers.

There are also concerns that are broader than simple technical matters. Some concerns seem more appropriately addressed external to a universal, mandatory requirements standards document and are perhaps more appropriate in a “guide” or special applications document. These include system impacts and analysis (e.g., is DEG necessary and when), penetration (e.g., ideal allowable aggregation of DEG), safety (e.g., functional versus operational modes), re-fitting of electric power systems (e.g., what to do), cost of electric power system re-fits (e.g., how to accomplish and who pays), operation (e.g., which standard and who is in control), reliability (e.g., operational issues such as durability versus availability), federal/state implementation and impacts (e.g., rules), misunderstanding or misapplication (e.g., limited experience or knowledge), and user disagreement (e.g., not all utilities and distributed generators are alike).

But even the absence of a liability would not necessarily mean DEG is viable, that it is a good idea at all times in all places. Some argue it has little more potential right now than certain niche applications (for example, saving the cost of line extensions to remote areas, or harnessing combined cycle power generation in urban areas). If and when utilities or non-generating customers are confronted with possible costs due to an expansion of DEG, then questions of fairness and the calculations of any long-term benefit need to be considered. If DEG passes the first test of market viability, then policymakers will become the arbiters of these other outstanding questions. They have already begun to weigh in on these matters.

#### **POLICIES AND INCENTIVES THUS FAR**

Montana already has numerous policies and incentives in place that are related to both renewable resources (the mainstay of DEG) and interconnection (the means by which DEG can plug into the grid). The phrase “related to” is deliberately used here. Depending upon one’s point of view, existing policies or regulations might either encourage or discourage the promotion of DEG. Thus, rather than imply one or the other, it seems more appropriate to say that they are “related to” DEG. Northwestern Energy and the electric cooperatives (through MECA) have each established their own guidelines for aspiring DEG producers who want to connect with the electrical distributions systems and net meter their surpluses against their own consumption. Again, depending upon one’s point of view, those guidelines may either facilitate or restrict the expansion of DEG in Montana. Clearly, with these diverse views from the varied stakeholders, the debate over DEG will continue.

#### **DISTRIBUTED ENERGY GENERATION AT THE CROSSROADS**

Few would disagree that Montana’s energy future is in uncharted territory. SJR 36 reminds us of the “electrical energy crisis in the summer of 2001.” Since then, there have been unprecedented increases in the prices that Montanans now pay for their energy. Other factors are also emerging that make DEG a timely topic. Various technologies are poised—others would say are proven—to be viable ways to harness renewable energy. The energy transmission infrastructure for Montana and the region is aging, struggling under growing load, and facing questions about how to grow. The questions are growing faster than the answers.



# INTERIM CALENDAR

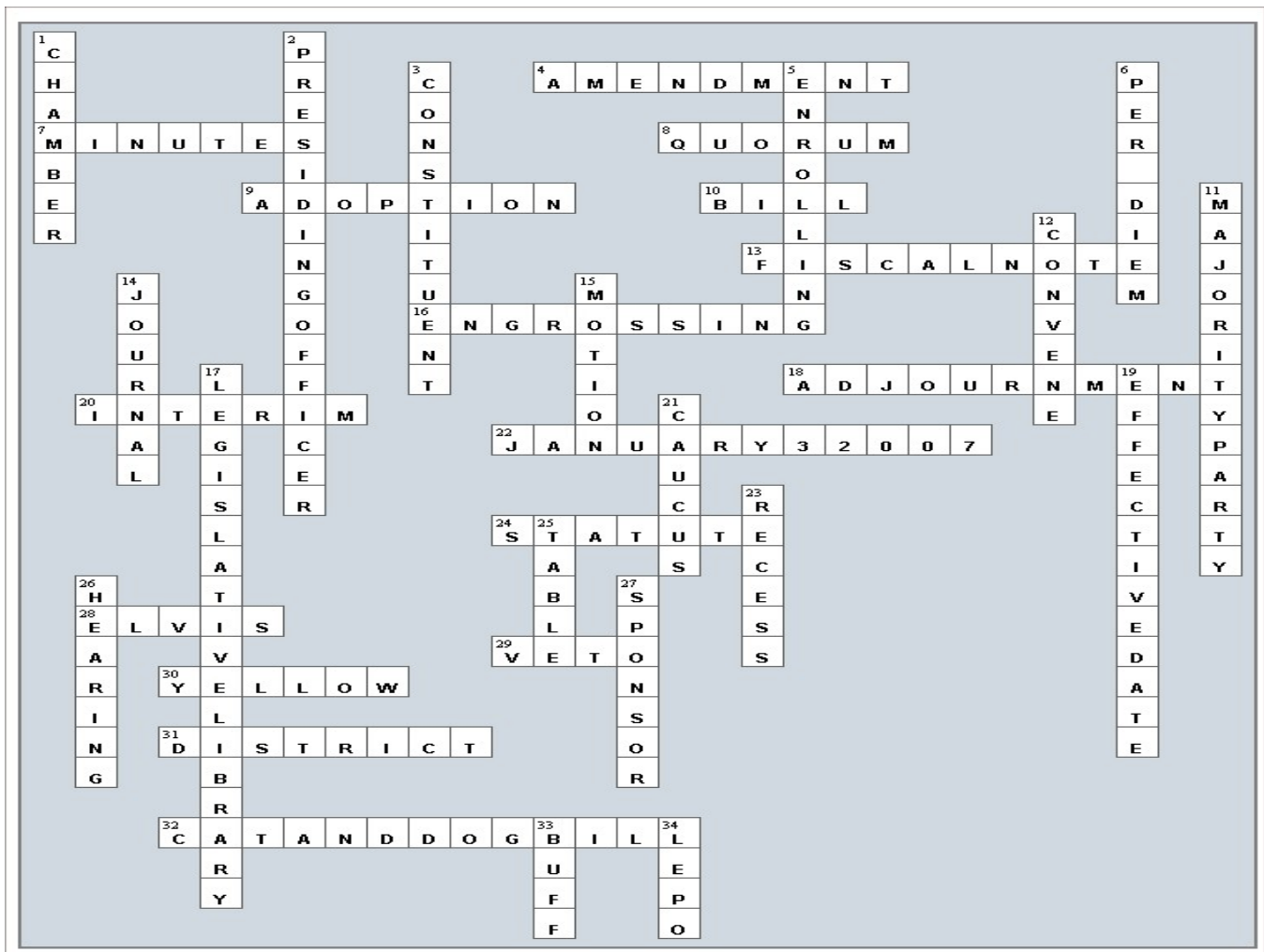
UNLESS OTHERWISE SPECIFIED, ALL ROOM DESIGNATIONS ARE IN THE CAPITOL

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
April 2006						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24 HB 790 Split Estates-Coal Bed Methane subcom- mittee	25	26	27 Legislative Finance Committee work group on state lands management, Room 102, 9 a.m.	28 Revenue and Transportation Com- mittee, Room 137, 8 a.m.  State Administration and Veterans' Affairs Committee	29
30						

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
May 2006						
	1	2	3	4 SJR 38 Identity Theft work group	5	6
7	8	9	10	11	12 State Administration and Veterans' Affairs Committee  Economic Affairs Committee	13
14	15	16	17	18 Environmental Quality Council sub- committees	19 Environmental Quality Council	20
21	22	23	24	25	26	27
28	29	30	31			

## DIVERSION SOLUTION

Extra marks for having solved the puzzle in ink.



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PO BOX 201706  
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